will cause to be observed by the authority it delegates to its tribunals." In his third lecture he emphasizes the value of the historical method which was first clearly presented in England in the epoch-making works of Sir Henry Sumner Maine. This leads the author to the conclusion that scientific jurisprudence is no longer an intellectual luxury but a practical necessity for the English lawyer and that the insularity of English law is a thing of the past. This logically leads to a consideration of the subject matter of the fourth and fifth lectures, namely the conflict of laws. This is one of the early and most brilliant presentations of a topic which has now become one of the recognized subjects of study in our best law school curricula, has engaged the thought of several of the Hague Conferences, and has led to the consideration of the international assimilation of law, at least within the fields of commercial law and the law of patents, trademarks, copyrights and international transportation. The student, both of history and philosophy of law, rises from a reading of the brilliant lectures of this venerable master with the feeling that he has come into contact with an intellect which has been able to correlate the often petty and apparently insignificant legal rules and practices of everyday life with a great and as yet partially unknown system that society in the process of its evolution has created for its own government.

David Werner Amram.

CASES ON NEGOTIABLE INSTRUMENTS SUPPLEMENTARY TO AMES'S CASES ON BILLS AND NOTES. By Zechariah Chafee, Jr. Langdell Hall, Cambridge. Published by the editor, 1919. Pp. 1–106.

This is a collection of twenty-nine modern cases intended to supplement the well-known collection of Professor Ames and made desirable by the course of judicial decision under the Negotiable Instruments Law. Teachers of the subject who use Ames' cases will welcome this little additional collection, the value of which is increased by frequent references to articles in legal periodicals. Professor Chafee in his prefatory note indicates that a new case book will be published by himself and Professor Brannan. This will, of course, become the Harvard case book to take the place of the classical collection of Ames.

THE RELATION OF CUSTOM TO LAW, by Gilbert T. Sadler; London, 1919. Pp. 86.

"Customs by repetition, or by declarations of popular authorities, often acquire certain marks (such as ancient, reasonable, certain, continuous, undisputed). When the Society in which such customs exist becomes a *State*, with a central coercive authority, such customs as have certain marks *become at once law*, because they *will be* recognized as law, should occasion require. They will *need* to be so recognized (or ratified) because the people hold them as sacred or necessary to their lives, and for a judge to refuse recognition would endanger the peace. The marks which change customs to law in a State vary in regard to general customs, particular local customs, customs of merchants over the world, and international customs: but in each case the marks are such as make it *practically binding* on the judge to recognize any custom when a case arises

involving the said custom. Customs in a primitive society without any central coercive authority are not laws, but customs in a State which, because of certain marks, will be recognized by a judge, are not only customs, but are also laws already." Pp. 85–86.

"Custom is, in the *broad* sense, all the social rules which are observed by the bulk of the members of a society—be it a clan or a nation—as well as the rules which pertain to a locality or a trade." P. 2.

"Instincts, interpreted by reason, may be . . . said to have created custom," p. 11.

At the same time the popular arbitrator, in interpreting the custom, slightly alters it, and so makes a new custom, p. 27.

In these few propositions we have the entire doctrine of the book. The rest of the book is mainly taken up with illustrations of customs taken from various times and countries, and an account of the recognition of some of them as laws by the State by reason of their having certain marks.

The only thing new in this book in the opinion of the present writer is the collection of examples. Otherwise the attentive reader might father the same information as to the essence of custom and its relation to law from a book like Holland's Jurisprudence. The latter discusses the formation of custom and its transformation into law on pp. 56–63 of the twelfth edition of this book, and one sees no advance in Holland in the book before us. We are told then (57) that without doubt custom originated generally in the conscious choice of the more convenient of two acts, though sometimes in the accidental adoption of one of two indifferent alternatives. In some cases there was no doubt "some ground of expediency of religious scruple, or of accidental suggestion" which suggested the custom taking one direction rather than another. This is quite as illuminating an account of the origin of custom as our author's "instincts interpreted by reason." And one does not see how any one can say much more about the origin of a thing so vague and yet so obvious as custom.

That custom is law even before it is recognized by the State expressly as such is also clearly stated by Holland, p. 61: "The rule that a court shall give binding force to certain kinds of custom is as well established as hundreds of other rules of law. . . ." Holland disagrees with Austin, who dates the State recognition of a custom (and hence its transformation into a law) from the time when the usage has been recognized in a court of justice. Holland's own view is that the court appeals to the custom "as to any other pre-existent law." The custom is therefore a law as soon as it can exhibit certain marks, and then it becomes a law by virtue of the rule of law that such customs shall be recognized by the State. Hence the State recognizes them potentially or by implication even before it takes actual notice of their existence. It will be seen from this brief description of the little book before us that it confines itself strictly to custom as above defined, and has no bearing on the topics, both intensely interesting and intensely complicated, that is treated in Dicey's "Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century."

Isaac Husik.